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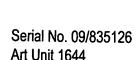


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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONCERNATION
09/835,126 909	04/16/2001	Randolph J. Noelle	P 0280602 1999-30-0522C1	CONFIRMATION NO.
PILLSBURY P.O. BOX 105 MCLEAN, VA	WINTHROP, LLP		EXAMINER GAMBEL, PHILLIP ART UNIT PAPER NUMBER	
,				
			1644 DATE MAILED: 09/24/2002	7

Please find below and/or attached an Office communication concerning this application or proceeding.

·	Application No.	Applicant(s)				
Office Action Summany	09/835126	~>@\c=				
Office Action Summary	Examiner	Art Unit				
	Gambel	1644				
- The MAILING DATE of this communication appears on the cover sheet with the correspondence address - Period for Reply						
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIREMONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.138(a). In no event, however, the reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). Status						
1) Responsive to communication(s) filed on	1) Responsive to communication(s) filed on					
2a) This action is FINAL. 2b) Th	is action is non-final.					
Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims						
4) Claim(s) 110 is/are pending in the application.						
4a) Of the above claim(s) is/are withdrawn from consideration.						
5) Claim(s) ITL is/are allowed.						
6) Claim(s) is/are rejected.						
7)☐ Claim(s) is/are objected to.						
8) Claim(s) are subject to restriction and/o	8) Claim(s) are subject to restriction and/or election requirement.					
Application Papers						
9) The specification is objected to by the Examiner.						
10)☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner.						
Applicant may not request that any objection to the						
11) The proposed drawing correction filed on						
If approved, corrected drawings are required in re		•				
12) The oath or declaration is objected to by the Examiner.						
Priority under 35 U.S.C. §§ 119 and 120						
13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).						
a) ☐ All b) ☐ Some * c) ☐ None of:						
1. ☐ Certified copies of the priority documents have been received.						
2. Certified copies of the priority documents have been received in Application No.						
3. Copies of the certified copies of the priority documents have been received in this National Stage						
application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received.						
14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).						
 a) The translation of the foreign language provisional application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. 						
Attachment(s)						
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s)		y (PTO-413) Paper No(s) Patent Application (PTO-152)				
U.S. Patent and Trademark Office PTO-326 (Rev. 04-01) Office Ar	ction Summary	Part of Paper No.				



DETAILED ACTION

- 1. This application contains claims directed to the following patentably distinct species of the claimed Invention: wherein the method is encompasses:
 - A) alloantigen bearing cells or
 - B) xenoantigen bearing cells.

These species are distinct because their structures and modes of action are different. Also, immune responses differ across alloantigen and xenoantigen barriers.

Applicant is required under 35 U.S.C. § 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic, for example.

2. In addition to choosing a species from Section 3 above; applicant is required an additional species from the following.

This application contains claims directed to the following patentably distinct species of the claimed Invention: wherein the gp39 antagonist is:

- A) anti-gp39 antibody or
- B) soluble CD40 or soluble CD40 fusion protein.

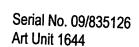
These species are distinct because their structures and modes of action are different.

Applicant is required under 35 U.S.C. § 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic, for example.

3. Applicant is advised that a response to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. § 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. M.P.E.P. § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. § 103 of the other invention.



- 4. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.
- 5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).
- 6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip Gambel whose telephone number is (703) 308-3997. The examiner can normally be reached Monday through Thursday from 7:30 am to 6:00 pm. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (703) 308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196.

Papers related to this application may be submitted to Technology Center 1600 by facsimile transmission. Papers should be faxed to Technology Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center telephone number is (703) 305-3014.

Phillip Gambel, PhD.
Primary Examiner
Technology Center 1600
September 18, 2002